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UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF PENNSYLVANIA

EDWARD ACKERMAN,

Petitioner

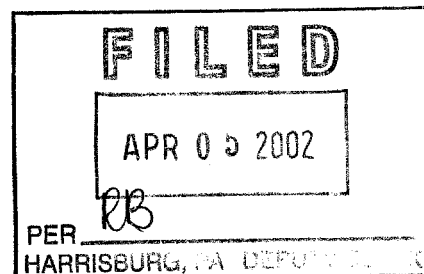
v.

JOHN McCULLOUGH,

Respondent

CIVIL NO. 1:CV-01-1048

(Judge Caldwell)



COMMONWEALTH'S ANSWER TO
PETITIONER'S HABEAS CORPUS PETITION

1. Admitted.
2. Admitted in Part. Denied in Part. The rape occurred on November 10, 1991, in Nuremburg, Schuylkill County. A jury convicted the Petitioner of Simple Assault and Indecent Assault in his first trial in 1991 and was unable to reach a verdict on the other charges. The Trial Court then entered a mistrial on the other charges. In a new trial in 1995, a jury found the Defendant guilty of the remaining offenses of Rape; Involuntary Deviate Sexual Intercourse; Aggravated Indecent Assault and Terroristic Threats.

3. Admitted.
4. Admitted.
5. Admitted.
6. Admitted. As noted, there were two jury trials.
7. Admitted.
8. Admitted.

The Commonwealth was served with pages 1, 2, 4 and 6 only of Petitioner's Habeas Corpus Petition. Pages 3 and 5 are missing. To the extent that the Commonwealth was not properly served with any other allegations, they are specifically denied.

12(c) Ground Three. Denied. The Petitioner does not state with clarity to what statement he is referring. There was an oral statement from the Petitioner listed in the probable cause affidavit and testified to by Trooper (now Sheriff) Francis McAndrew at both trials. See attached Exhibits A, B, and C. This statement has been reviewed and discussed in various Court Opinions. See attached Exhibits G, H, J, K, and L.

12(e) Denied. Whether DNA testing could be done was also reviewed by the trial Court. See Exhibit I.

13. Denied. The Trial, Superior, and Supreme Courts reviewed Defendant's double jeopardy claim. (See Exhibits D, E and F.) The Commonwealth did not control the sentencing date; this was determined by the Court.

Respectfully submitted,



KAREN BYRNES-NOON
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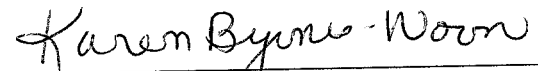
EDWARD ACKERMAN,	:	CIVIL NO. 1:CV-01-1048
Petitioner	:	
	:	(Judge Caldwell)
v.	:	
	:	
JOHN McCULLOUGH,	:	
Respondent	:	

CERTIFICATION OF SERVICE

I, **KAREN BYRNES-NOON**, Assistant District Attorney of Schuylkill County, hereby certify that a copy of the Commonwealth's Answer to Petitioner's Habeas Corpus Petition, New Matter/Commonwealth's Motion to Dismiss and Commonwealth's Memorandum was served this day by regular mail upon the following:

Edward Ackerman, CW-5843
SCI - Houtzdale
P. O. Box 1000
Houtzdale, PA 16698-1000

Respectfully submitted,



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DATE: April 3 2003